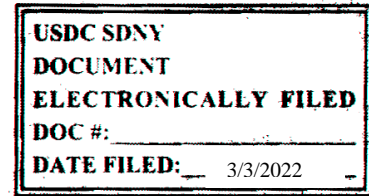


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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RAFIC SAADEH,

Plaintiff,

20-CV-01945 (PAE)(SN)

-against-

ORDER

MICHAEL KAGAN, et al.,

Defendants.

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SARAH NETBURN, United States Magistrate Judge:

On March 1, 2022, the Court issued a Report & Recommendation, recommending that the Plaintiff be granted a restraining notice against Estate Assets pursuant to Federal Rule of Civil Procedure 69 and Article 52 of New York's Civil Practice Law and Rules. ECF No. 187. Given Defendant Michael Kagan's representation that the disbursement of settlement funds from the U.K. litigation was imminent, the Court also granted Plaintiff's motion for a temporary restraining order restraining Estate Assets until further order of the District Court. Id. On March 2, 2022, Michael Kagan filed a letter notifying the Court that the funds had been fully disbursed to the U.K. law firm and third-party lenders before the delivery of the Report and Recommendation, rendering the Court's order moot. ECF No. 188.

Given the history of this case and the pending application to the Court, the expeditious distribution of these funds suggests bad faith and grounds for sanctions. Accordingly,

Defendants Michael and Joshua Kagan are ORDERED to provide expedited discovery including:

- All communication, including emails and texts, between and among Michael Kagan, Joshua Kagan, Marni Kagan, and Noah Kagan regarding the settlement of the U.K. litigation and/or the distribution of settlement funds;
- All communications with U.K. Counsel regarding funding agreements, the receipt of the U.K. litigation settlement funds, and the disbursement of those funds;
- All documents related to the funding agreements;
- All bank account statements or other documents reflecting any loans provided to the U.K. litigation counsel to fund the litigation, the receipt of the settlement funds, and payment of the settlement funds to any third-party; and
- All documents related to the distribution of the settlement funds, including the account the funds were initially disbursed into, who controlled that account, who directed that the funds be issued to the third-party lenders, and when funds were disbursed.

All discovery must be produced by Friday, March 18, 2022.

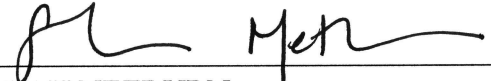
Furthermore, Plaintiff is authorized to depose U.K. counsel, as well as Defendants solely on these issues. Those depositions should be completed by Friday, March 25, 2022. For the avoidance of doubt, the Court finds an at-issue waiver of the attorney-client privilege in connection with the U.K. settlement funds and their disbursements.

The Court will entertain a motion for sanctions after the completion of this discovery. Such motion may seek any appropriate relief, including without limitation monetary and case dispositive sanctions.

Lastly, Defendant Joshua Kagan is ORDERED immediately to place the funds he received from the disbursement of the settlement funds in an attorney escrow account. According to a spreadsheet of loans provided to fund the U.K. lawsuit, Joshua Kagan loaned \$51,545.75 to finance the litigation. ECF No. 132, Ex. 4. The Court expects that he will place at least \$50,000 in escrow until further order of the Court. Joshua Kagan's Counsel is ORDERED to file proof

that he has received those funds and placed them in a secured, interest-bearing account by no later than Monday, March 7, 2022.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: New York, New York
March 3, 2022